

Amendments to the Claims

Claim 1 (Previously presented): Seed of hybrid maize variety designated 36N70, representative seed of said variety having been deposited under ATCC Accession number PTA-5463.

Claim 2 (Currently amended): A maize plant, or a part thereof, produced by growing the seed of claim 1.

Claim 3 (Original): Pollen of the plant of claim 2.

Claim 4 (Original): An ovule of the plant of claim 2.

Claims 5-58 (Canceled)

Claim 59 (Previously presented): A tissue culture of regenerable cells produced from the plant of claim 2.

Claim 60 (Previously presented): Protoplasts produced from the tissue culture of claim 59.

Claim 61 (Previously presented): The tissue culture of claim 59, wherein cells of the tissue culture are from a tissue selected from the group consisting of leaf, pollen, embryo, root, root tip, anther, silk, flower, kernel, ear, cob, husk and stalk.

Claim 62 (Previously presented): A maize plant regenerated from the tissue culture of claim 59, said plant having all the morphological and physiological characteristics of hybrid maize plant 36N70, representative seed of said plant having been deposited under ATCC Accession No. PTA-5463.

Claim 63 (Previously presented): A method for producing an F1 hybrid maize seed, comprising crossing the plant of claim 2 with a different maize plant and harvesting the resultant F1 hybrid maize seed.

Claim 64 (Previously presented): A maize plant, or a part thereof, having all the physiological and morphological characteristics of the hybrid maize plant 36N70, representative seed of said plant having been deposited under ATCC Accession No. PTA-5463.

Claim 65 (Previously presented): A method of introducing a desired trait into a hybrid maize variety 36N70 comprising:

- (a) crossing at least one of inbred maize parent plants GE570937 and GE501400, representative seed of which have been deposited under ATCC Accession Nos. as PTA-5513 and PTA-1282 respectively, with another maize line that comprises a desired trait, to produce F1 progeny plants, wherein the desired trait is selected from the group consisting of male sterility, herbicide resistance, insect resistance, disease resistance and waxy starch;
- (b) selecting said F1 progeny plants that have the desired trait to produce selected F1 progeny plants;
- (c) backcrossing the selected progeny plants with said inbred maize parent plant to produce backcross progeny plants;
- (d) selecting for backcross progeny plants that have the desired trait and morphological and physiological characteristics of said inbred maize parent plant to produce selected backcross progeny plants;
- (e) repeating steps (c) and (d) three or more times in succession to produce a selected fourth or higher backcross progeny plants; and
- (f) crossing said fourth or higher backcross progeny plant with the other inbred maize parent plant to produce a hybrid maize variety 36N70 with the desired trait and all of the morphological and physiological characteristics of hybrid maize variety 36N70 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 66 (Previously presented): A plant produced by the method of claim 65, wherein the plant has the desired trait and all of the physiological and morphological characteristics of hybrid maize variety 36N70 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 67 (Previously presented): The plant of claim 66 wherein the desired trait is herbicide resistance and the resistance is conferred to an herbicide selected from the group consisting of: imidazolinone, sulfonylurea, glyphosate, glufosinate, L-phosphinothrinicin, triazine and benzonitrile.

Claim 68 (Previously presented): The plant of claim 66 wherein the desired trait is insect resistance and the insect resistance is conferred by a transgene encoding a *Bacillus thuringiensis* endotoxin.

Claim 69 (Previously presented): The plant of claim 66 wherein the desired trait is male sterility and the trait is conferred by a cytoplasmic nucleic acid molecule that confers male sterility.

Claim 70 (Currently amended): A method of modifying fatty acid metabolism, phytic acid metabolism or carbohydrate metabolism in a hybrid maize variety 36N70 comprising:

- (a) crossing at least one of inbred maize parent plants GE570937 and GE501400, representative seed of which have been deposited under ATCC Accession Nos. as PTA-5513 and PTA-1282 respectively, with another maize line that ~~comprises~~ comprises a nucleic acid molecule[[_]] encoding an enzyme selected from the group consisting of phytase, stearyl-ACP desaturase, fructosyltransferase, levansucrase, alpha-amylase, invertase and starch branching enzyme;
- (b) selecting said F1 progeny plants that have said nucleic acid molecule to produce selected F1 progeny plants;
- (c) backcrossing the selected progeny plants with said inbred maize parent plant to produce backcross progeny plants;
- (d) selecting for backcross progeny plants that have said nucleic acid molecule and morphological and physiological characteristics of said inbred maize parent plant to produce selected backcross progeny plants;
- (e) repeating steps (c) and (d) three or more times in succession to produce a selected fourth or higher backcross progeny plants; and

(f) crossing said fourth or higher backcross progeny plant with the other inbred maize parent plant to produce a hybrid maize variety 36N70 that comprises said nucleic acid molecule and has all of the morphological and physiological characteristics of hybrid maize variety 36N70 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 71 (Previously presented): A plant produced by the method of claim 70, wherein the plant comprises the nucleic acid molecule and has all of the physiological and morphological characteristics of hybrid maize variety 36N70 listed in Table 1 as determined at the 5% significance level when grown in the same environmental conditions.

Claim 72 (Previously presented): A method for producing a maize seed, comprising crossing the plant of claim 2 with itself or a different maize plant and harvesting the resultant maize seed.